

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Reclassification of License of
Station KRFX(FM), Denver, Colorado) RM-10630
)

ORDER TO SHOW CAUSE

Adopted: February 26, 2003

Released: March 4, 2003

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a petition for rule making filed by Akron Broadcasting Company ("Petitioner"), seeking to amend the FM Table of Allotments by allotting Channel 279C1 at Akron, Colorado, as the community's first local aural transmission service. Petitioner claims that, in order to meet spacing requirements to Station KRFX(FM), Denver, Colorado, that station must be reclassified as a Class C0 facility. Station KRFX(FM) currently operates on Channel 27XC with an effective radiated power ("ERP") of 100 kilowatts ("kW") at 320 meters height above average terrain (HAAT), which is below the minimum Class C antenna height of greater than 450 meters HAAT with 100 kW ERP. Petitioner asserts that because Station KRFX(FM) is operating below minimum Class C facilities, it is subject to reclassification as a Class C0 facility pursuant to the triggering procedures adopted in the Commission's *Second Report and Order*, MM Docket No. 98-93,¹ and outlined in note 2 to Section 1.420(g) and note 4 to Section 73.3573 of the Commission's Rules. The staff has tentatively concluded that if KRFX(FM) operates as a Class C0 facility, any short-spacing between Station KRFX(FM) and the proposed use of Channel 279C1 at the proposed site would be eliminated. For the reasons discussed below, we are issuing this *Order to Show Cause* directed to Jacor Broadcasting of Colorado, Inc. ("Jacor"), licensee of Station KRFX(FM), Denver, Colorado to show cause why its facilities should not be reclassified.

2. Pursuant to the reclassification procedures set forth in the *Second Report and Order*, *supra*, and note 2 of Section 1.420(g) of the Commission's Rules, the reclassification of a Class C FM station to a Class C0 station may be initiated through the filing of an original petition for amendment of the FM Table of Allotments. In those instances in which a triggering petition proposes an amendment or amendments to the FM Table of Allotments in addition to the proposed reclassification, the Commission will issue an order to show cause as set forth in Note 4 to Section 73.3573 of the Rules, and a Notice of Proposed Rule Making will be issued only after the reclassification issue is resolved. In order to comply with the foregoing reclassification procedures, it is first necessary to issue this *Order to Show Cause* directed to Jacor to show cause why Station KRFX(FM)'s license should not be modified to specify operation on Channel 278C0 in lieu of Channel 27XC at Denver, Colorado. Section 316(a) of the Communications Act of 1934, as amended, permits us to modify a license or construction permit if such action is in the public interest. Section 316(a) requires that we notify the affected stations of the proposed action, the public interest reasons for the action, and afford at least 30 days to respond. This procedure is

¹ 15 FCC Red 21649 (2000) ("1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules").

now set forth in Section 1.87 of the Commission's Rules.² In this instance, the reclassification of Station **KRFX(FM)** as a Class **C0** station at **Denver**, Colorado, will accommodate the allotment of Channel 27YC1, Akron, Colorado, as proposed by Petitioner. We **consider** this reallocation proposed by Petitioner to have sufficient public interest benefits *to* justify the issuance of a show cause order.

3. The Station **KRFX(FM)** license at Denver, Colorado, can **be** modified to allow the reclassification of Channel 278C to Channel 278C0 at its currently authorized transmitter site.³

4. Accordingly, **IT IS ORDERED**, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Jacor Broadcasting of Colorado, **Inc.**, licensee of Station **KRFX(FM)**, Denver, Colorado, **SHALL SHOW CAUSE** why its license should not **be** modified to specify operation as a **Class C0** station on Channel 278C0, Denver, Colorado.

5. Pursuant to Section 1.87 of the Commission's Rules, Jacor may, no later than, **April 18, 2003**, file a written statement showing with particularity why its license should not **be** modified as proposed in this *Order to Show Cause*. The Commission may call upon the licensee to furnish additional information. If the licensee raises a substantial and material question of fact, a hearing **may** **be** required to resolve such questions of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, **the** Commission may grant **the** modification, deny the modification, or **set** the **matter** of modification for hearing. If no written statement is filed by **the** date referred to above, the licensee will **be** deemed to have consented to a modification as proposed in this Order to Show Cause and a final Order will **be** issued if **the** modification is found to **be** in the public interest. If Jacor chooses to seek authority to modify Station **KRFX(FM)**'s facilities, an acceptable application for a construction permit to increase the antenna height to greater than 450 meters HAAT and 100 kW ERP or **the equivalent** must **be** on file with the Commission within 180 days subsequent to the show cause response due date (April 18, 2003).

6. **IT IS FURTHER ORDERED**. That a copy of this Order to Show Cause shall **be** sent **BY** CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the following:

Jacor **Broadcasting** of Colorado, **Inc.**
c/o Marissa G. Repp
Hogan & Hartson L.L.P.
Columbia Square
555 13th St., NW
Washington, D.C. 20004-1109

7. For further information on this proceeding, contact Victoria M. McCauley, Media Bureau (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

² See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Red 3327 (1987).

³ The reference coordinates for Channel 278C0 at Denver are NL 39-43-50 and WL 105-14-07.